

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 TERRI PECHNER-JAMES
4 and SONIA FERNANDEZ,

5 Plaintiffs,

VOLUME VIII

6 VS. C.A. NO. 03-12499-MLW

7
8 CITY OF REVERE; THOMAS
9 AMBROSINO, MAYOR; CITY OF
10 REVERE POLICE DEPARTMENT,
11 TERRENCE REARDON, CHIEF;
12 BERNARD FOSTER, SALVATORE
13 SANTORO, ROY COLANNINO,
14 FREDERICK ROLAND, THOMAS DOHERTY,
15 JOHN NELSON, JAMES RUSSO,
16 MICHAEL MURPHY, and STEVEN FORD,

17 Defendants.

18
19 CONTINUED DEPOSITION of SONIA FERNANDEZ taken
20 at the request of the defendants pursuant to
21 Rule 30 of the Federal Rules of Civil Procedure
22 before Dawn J. Cormier Bourn, a notary public in
23 and for the Commonwealth of Massachusetts, on
24 June 21, 2006, commencing at 9:17 a.m. at the
Revere City Hall, 281 Broadway, Revere,
Massachusetts.

COPY

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I N D E X

DEPONENT: SONIA FERNANDEZ

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1 SONIA FERNANDEZ, PREVIOUSLY SWORN.

2 - - - - -

3 MS. THORPE: I know we're 15 minutes
4 late, so do you want to go 15 minutes later?

5 MR. PORR: Okay.

6 - - - - -

7 FURTHER EXAMINATION BY MR. PORR:

8 Q. So we're back on the record with
9 Ms. Fernandez. Good morning.

10 A. How are you?

11 Q. Good, thank you. How about yourself?

12 A. Tired.

13 Q. Having trouble sleeping?

14 A. Yeah.

15 Q. Still?

16 A. Yeah.

17 Q. Take any medication today?

18 A. Nothing.

19 Q. All right. Aside from tired, are you
20 feeling okay?

21 A. Yeah. Yes, sorry. Yes.

22 Q. Madam reporter asked me before we
23 started to ask you to speak up.

24 A. Okay. I'm sorry. You know what it

1 is? Because sometimes I speak softly.

2 Q. You do.

3 A. I do. Sometimes I speak very softly.

4 Q. And when we set up this morning, the
5 council chambers here was warm, very warm, so
6 we've got air-conditioners running.

7 A. Okay.

8 Q. So you're competing with the air-
9 conditioners.

10 A. Okay.

11 Q. And it's important that you speak up
12 so that she can get an accurate record.

13 A. Okay.

14 Q. So that's important.

15 No hearing aids today?

16 A. Not with you.

17 Q. We're doing all right?

18 A. Doing fine.

19 Q. The last time I got to ask questions
20 was back on June 2nd.

21 A. Right.

22 Q. And then a week later Mr. Vigliotti
23 had a half-day session, I think. I was gone.

24 A. Right.

1 Q. Have you reviewed any documents
2 between any of those deposition sessions and
3 today?

4 A. No.

5 Q. Looked at any of the transcripts of
6 your testimony?

7 A. No.

8 Q. How about Terri Pechner's testimony?

9 A. No.

10 Q. After last Friday's deposition
11 session, apparently a concern was raised. You
12 were concerned that I had laughed?

13 A. Laughed.

14 Q. Okay. And they were trying --
15 Mr. Vigliotti and Mr. Capizzi were trying to
16 explain it to me. You seemed to be upset, they
17 thought, and so I want to clear the air on that.
18 What exactly --

19 A. Remember when you asked me how my
20 grandmother was doing?

21 Q. On the 2nd?

22 A. Yeah.

23 Q. Because we had ended a previous
24 deposition session early because she was not

1 well.

2 A. Right.

3 Q. Okay. Yeah, all right. I know I
4 asked you about that.

5 A. In the morning you asked me how my
6 grandmother was doing. I think it was a morning
7 session.

8 Q. Right.

9 A. And I saw you laugh, and I didn't know
10 if it was because maybe you thought that I used
11 that as an excuse to leave early. My mind was
12 just racing. I just couldn't -- and for the life
13 of me I couldn't figure out why in the world was
14 he laughing. Was he laughing because maybe he
15 thought I used it as an excuse to leave my
16 deposition early. And I couldn't sleep over that
17 because I didn't have the nerve to ask you that
18 day.

19 Q. Okay. I've got to confess, I don't
20 recall laughing about anything, and I certainly
21 wouldn't laugh about your grandmother. I talked
22 to Mr. Vigliotti and Mr. Capizzi. They didn't
23 seem to recall me laughing about anything either.

24 But be that as it may, let me assure

1 you that --

2 A. I wasn't accusing you of anything.

3 Q. Okay. Okay.

4 A. I just wanted to know, because it was
5 bothering me so much I couldn't sleep.

6 Q. Well, and that's why I wanted to
7 address it, because you had expressed some
8 concern to them on the 9th.

9 Honestly, I wouldn't laugh about your
10 grandmother or anything about your family
11 situation that way. Certainly not intentionally.

12 A. Okay.

13 Q. Now, maybe something else was going
14 through my mind. I mean, I don't remember, but
15 in any event, I'd like to make sure we've cleared
16 the air here and that there's no lingering doubt
17 or concern on your part.

18 A. Okay.

19 Q. So are we okay on that?

20 A. Okay.

21 Q. How is your grandmother?

22 A. The same. One day she's okay or one
23 day she's not okay.

24 Q. Now, is she at home or in the

1 hospital?

2 A. Now she's home. She's going to pass
3 in her house.

4 Q. So regardless of what happens, she's
5 not going back to the hospital?

6 A. No. She has a DNR.

7 Q. I'm sorry?

8 A. A DNR, do not resuscitate, a DNR.

9 Q. How many family members are nearby,
10 you know, related to your grandmother? There's
11 yourself.

12 A. Well, she had nine children. Two
13 passed. Right now with my grandmother it's my
14 mom and my uncle that she lives with, me, my aunt
15 who was here from California, but she went back
16 home, and another aunt, but we all rotate
17 sleeping with her at night.

18 Q. Okay. So the family is kind of
19 rallying around her right now?

20 A. Yeah, we're just doing shifts.

21 Q. Sure.

22 A. One night I'll stay with her from
23 midnight till 7:00 to make sure she doesn't get
24 up and get out of bed.

1 Q. When is the last time you stayed with
2 her?

3 A. When she came out of the hospital. I
4 think once when she came out of the hospital.

5 Q. This week? Last week? Two weeks ago?

6 A. About a week and a half ago.

7 Q. Speak up, if you can.

8 A. I'm trying. I'm sorry. I have a
9 little bit of a sore throat.

10 Q. Are you losing sleep over your
11 grandmother's condition?

12 A. Nope. Well, it's not easy going to
13 sleep either not knowing if that phone is going
14 to ring.

15 Q. Sure. Understood.

16 Okay. Have you talked to Terri
17 Pechner since we last were across the table on
18 June 2nd?

19 A. I did.

20 Q. When did you talk to her last?

21 A. Last night.

22 Q. Okay. And what did you and she talk
23 about?

24 A. She called me to see how my

1 grandmother was.

2 Q. Anything else?

3 They're working outside.

4 A. Oh, okay. Sorry.

5 Q. It's okay.

6 A. She was telling me how sick she was.

7 Q. Terri is sick?

8 A. Yeah, she's really sick.

9 Q. Did she tell you what she had? Flu,
10 pneumonia, broken leg, whatever?

11 A. No, no, nothing like that. Just that
12 she's feeling ill.

13 Q. Did she say anything about her
14 deposition session tomorrow?

15 A. She's coming.

16 Q. Okay. Other than that?

17 A. No.

18 Q. She asked about your grandmom, said
19 she was really sick, confirmed she was coming
20 tomorrow. Anything else that you talked about?

21 A. Give me a minute. Just she was sick.
22 She was -- she sounded sick when she called me.
23 I asked her.

24 Q. Okay. Did she say what she had?

1 A. I think it has to do something with --
2 she's -- it's personal, I think.

3 Q. Oh, okay.

4 A. It's a female thing. I don't know. I
5 don't feel comfortable disclosing what she said
6 to me.

7 Q. All right. All right.

8 A. But it has something to do with her
9 physically.

10 Q. Okay.

11 A. Is that all right?

12 Q. We'll work with that.

13 (Discussion held off the record.)

14 Q. Okay. I want to pick up with the June
15 of '98 time frame. We ended on June 2nd looking
16 at an East Boston Health Clinic note from May of
17 '98.

18 A. Okay.

19 Q. And if you notice, I've been trying to
20 move in a chronological fashion through the
21 events of your employment with the City of
22 Revere, Terri's employment, the issues in your
23 complaint and so forth.

24 So what I want to show you is -- it's

1 Exhibit 12. These are Terri Pechner's notes. At
2 Page 8, I'd like you to look at the big paragraph
3 at the top of the page.

4 A. Can I read it?

5 Q. Yeah, I'm handing it to you to look
6 at.

7 A. (Pause in testimony while reviewing
8 document.)

9 Okay.

10 Q. All right. With respect to this June
11 '98 entry in Terri Pechner's notes, were you
12 aware that this incident that she described here
13 had occurred?

14 A. I just remembered it.

15 Q. Okay. And when did you first learn
16 about what's described here as occurring in June
17 of '98?

18 A. I don't remember.

19 Q. Who told you?

20 A. I don't remember.

21 Q. Do you know if this June of '98
22 incident was discussed at the meeting in January
23 of '99?

24 A. I don't think so.

1 Q. Okay. At the bottom of the note here,
2 as we get to the bottom of the note it talks
3 about Chief Russo was out on sick leave, using
4 sick leave before he retired.

5 A. Okay. Yeah.

6 Q. Is that consistent with your
7 recollection, that as of June of '98 Chief Russo
8 was using sick leave and Roy Colannino was acting
9 as the police chief in his absence?

10 A. To be honest with you, Mr. Porr, I
11 didn't pay any attention to that.

12 Q. So you don't know one way or the
13 other?

14 A. No.

15 Q. Were there any rumors circulating
16 through the police department that Terri Pechner
17 was having an affair with either Sergeant Goodwin
18 or Lieutenant Santoro?

19 A. I don't remember.

20 Q. Did you hear about the incident that
21 is described here in these notes around June of
22 '98 or was it later?

23 A. I don't know.

24 Q. Just leave that there. I'm going to

1 hand you Exhibit 2, which is the complaint in
2 this matter, and I'm going to open it up to
3 Paragraph 96 on Page 14. And if you'd read
4 Paragraph 96 to yourself, I'm more concerned with
5 the second half of the paragraph --

6 A. Okay.

7 Q. -- than with the first.

8 A. (Pause in testimony while reviewing
9 document.)

10 Okay.

11 MR. PORR: All right. Let me ask
12 madam reporter to mark this as next in order.

13 (Deposition Exhibit No. 45 marked.)

14 Q. All right. Let me show you what I've
15 had marked as Exhibit 45 for your deposition, and
16 if you'll notice, below the deposition sticker
17 there is a photocopy of an exhibit sticker from
18 when we were in court back on March 3rd.

19 A. 1989?

20 Q. No, that's the case number.

21 A. Oh, okay. I'm sorry.

22 Q. The date is there.

23 A. I see it.

24 Q. And I think we've looked at a couple

1 other sets of interrogatories, and you remember
2 we were in court on March 3rd and the judge had
3 you attest to your interrogatories?

4 A. Yes.

5 Q. Okay. With respect then to these
6 interrogatories, what I want to do is -- bear
7 with me a second.

8 I want to turn to Page 8.

9 Interrogatory No. 73 asks for the date of the
10 incident concerning the chalkboard drawing as set
11 forth in Paragraph 96. Do you see that?

12 A. Yes.

13 Q. And then your answer was an
14 approximation of July of 1998. Do you see that?

15 A. (Nods head.)

16 Q. How did you come up with that
17 approximation? What did you base that date upon?

18 A. I think it was because of the time
19 frame between the chalkboard incident and the
20 underwear incident. I'm not sure.

21 Q. Okay. What about the time frame
22 between those two -- what leads you to come up
23 with the July '98 date in relationship to the
24 underwear incident?

1 A. I don't know. I saw it.

2 Q. Okay.

3 A. I wasn't the only one who saw it.

4 Q. I understand.

5 A. I probably wrote it in one of the
6 notes that I gave to Attorney Dilday. I'm not
7 sure.

8 MR. PORR: Let me mark that as next in
9 order.

10 (Deposition Exhibit No. 46 marked.)

11 Q. Okay. You made reference -- I only
12 have one copy, so bear with me.

13 So you made reference to some notes
14 you gave Attorney Dilday. I've just had a
15 document marked as Exhibit 46. Are those the
16 notes that you're referring to?

17 A. Yes. It was an educated guess, but I
18 guess I'm wrong.

19 Q. Okay. Could you look through those
20 notes and tell me if there's any reference to the
21 chalkboard drawing alleged in Paragraph 96?

22 A. Okay. (Pause in testimony while
23 reviewing document.)

24 No, I don't see it.

1 Q. Are these notes that we're looking at,
2 Exhibit 46, are they in your handwriting?

3 A. Yes.

4 Q. And it looks like the original was on
5 standard school notebook paper?

6 A. Yes.

7 Q. When did you write these notes?

8 A. I used it -- well, I wrote them when
9 they happened.

10 Q. So did you keep a notebook where you
11 started recording notes of events that happened
12 concerning the Revere Police Department?

13 A. You mean like a diary?

14 Q. I guess I was asking, do these notes
15 all come from the same notebook?

16 A. I don't know. I don't think so.

17 Q. Okay. Are these all of your notes?

18 A. Yes, I believe so.

19 Q. All right. So as you sit here now,
20 there's no reference to the chalkboard drawing
21 referred to in Paragraph 96 in the complaint in
22 these notes?

23 A. I know where I saw it, the date.

24 Q. Okay. Where?

1 A. Officer Malatesta, her notes.

2 Q. You've seen Officer Lynn Malatesta's
3 notes?

4 A. Yes, I have.

5 Q. Where did you see those notes?

6 A. In my attorney's office.

7 Q. Mr. Dilday has them?

8 A. I believe so.

9 Q. When did you last see Officer Lynn
10 Malatesta's notes in Mr. Dilday's office?

11 A. Years ago.

12 Q. Can you be a little more precise in
13 terms of how many years ago?

14 A. Two or three.

15 Q. Do you know how Mr. Dilday came about
16 a copy of Officer Lynn Malatesta's notes?

17 A. I don't know if she gave me a copy or
18 if she gave Officer James a copy.

19 Q. Okay. When you say Officer James, you
20 mean Terri?

21 A. Terri.

22 Q. The only reason I ask for the
23 distinction is because there's Officer Mark James
24 as well.

1 A. Sorry.

2 Q. Had you seen Lynn Malatesta's notes
3 prior to seeing them in Mr. Dilday's office?

4 A. Yes.

5 Q. When did you first see Lynn
6 Malatesta's notes?

7 A. I don't remember.

8 Q. What was the occasion that resulted in
9 you seeing Lynn Malatesta's notes the first time?

10 A. I can tell you the reason she showed
11 me.

12 Q. Sure.

13 A. They were -- when I went and I didn't
14 know what to do with Lieutenant Foster, they told
15 me that they would be a witness for me if I
16 needed one.

17 Q. Who is the "they" that you're talking
18 about here?

19 A. Lynn Malatesta, Julie Malvarosa.

20 Q. Was this at some sort of a meeting the
21 women were having?

22 A. No, no, just a general conversation we
23 had at the station.

24 Q. And Lynn had these notes with her at

1 the time?

2 A. No, no. I don't know if she brought
3 them to work and I read them in the cruiser or if
4 she gave me a copy of them. I don't remember.

5 Q. How many pages of notes did Lynn have?

6 A. Lynn has a lot of pages.

7 Q. More than 10?

8 A. Yes.

9 Q. More than 20?

10 A. Possibly.

11 Q. As many as 30?

12 A. I don't know.

13 Q. As many as 50?

14 A. No, I don't think 50.

15 Q. Okay. So somewhere between 20 and 30?

16 A. I think so.

17 Q. Handwritten?

18 A. I don't remember.

19 Q. Because we've got 21 pages of notes
20 from Terri Pechner which are typed, and then we
21 have a few pages of notes from you which are
22 handwritten.

23 A. I think she wrote them. I think she
24 wrote them.

1 Q. Eight-and-a-half by 11 size paper?
2 Normal size paper?

3 A. Like your notebook.

4 Q. Like my note pad?

5 A. Yes.

6 Q. Single spaced?

7 A. Yes. I would say yes.

8 Q. Okay. Do you recall the time period
9 that the notes covered?

10 A. What do you mean?

11 Q. The notes, were they in chronological
12 order?

13 A. Yes. She's very detailed like that.

14 Q. And did they start, for instance, back
15 in September of '95 or February of '96 and go in
16 chronological order until some end date?

17 A. Yes.

18 Q. Do you recall the date the notes
19 started?

20 A. No. I don't remember.

21 Q. Did they cover anything that occurred
22 at the academy?

23 A. I don't know.

24 Q. You went to the academy with Lynn;

1 correct?

2 A. Yes, yes.

3 Q. And that was roughly September of '95
4 until roughly February of '96?

5 A. Yes.

6 Q. And then you and Lynn and the rest of
7 those academy graduates went to work as police
8 officers for the city as opposed to being cadets
9 at the academy in February of '96?

10 A. Right.

11 Q. Assuming then that the notes picked up
12 with anything that may have happened once you got
13 here working for the City of Revere in February
14 of '96, and you indicated they seemed to go in
15 chronological order, do you know the end date for
16 the notes that you saw?

17 A. They're probably still going.

18 Q. All right. So your recollection is
19 that Lynn showed you a copy of her notes at least
20 once while you were still working for the Revere
21 Police Department?

22 A. Yes.

23 Q. You have since seen the notes in
24 Attorney Dilday's office?

1 A. I did.

2 Q. Have you seen them any other time?

3 A. No.

4 Q. When you looked at Lynn's notes at
5 Attorney Dilday's office, were you looking at a
6 document that was consistent with what you had
7 seen before?

8 A. Sorry. No.

9 Q. What was different?

10 A. Oh, you mean when I saw her notes
11 again?

12 Q. Yeah.

13 A. They looked exactly the same. I'm
14 sorry.

15 Q. That's fine.

16 What I was looking for, had Lynn added
17 any additional pages since the last time you had
18 seen them?

19 A. Oh, I don't remember.

20 Q. Because presumably there's a gap in
21 time between when you first saw them and when you
22 next saw them?

23 A. Right.

24 Q. Do you know what that gap is? A

1 couple years?

2 A. Possibly.

3 Q. All right. And that's what I'm
4 getting at. You said a moment ago Lynn is
5 probably still taking notes.

6 A. Yes.

7 Q. So I would assume that when you first
8 saw the notes they were complete up to that time?

9 A. Right.

10 Q. And then a couple years later you saw
11 them in Attorney Dilday's office, and what I was
12 wondering is, did you see additional notes you
13 hadn't seen before covering that gap?

14 A. No. No. If they were there, I didn't
15 read them.

16 Q. So have you -- go ahead.

17 A. If I did read them, I don't remember.

18 Q. Okay.

19 A. I'm being honest.

20 Q. That's fine.

21 And let me back up and just double-
22 check. Have you seen the notes more than twice?

23 A. I saw them twice.

24 Q. Lynn showed them to you once.

1 Attorney Dilday showed them to you once.

2 A. I don't know if I brought them to him
3 or if Terri brought them to him.

4 Q. No, I understand.

5 A. I saw them in his office.

6 Q. Right. So, again, Lynn showed you her
7 notes once, and then next you saw them in
8 Attorney Dilday's office?

9 A. Yes.

10 Q. Okay. And so it's your recollection
11 going back to Paragraph 96 that the date of this
12 incident, July of '98, you may be taking that
13 from Lynn's notes?

14 A. Yes.

15 Q. Okay. Now, you indicated that you saw
16 this drawing?

17 A. Yes.

18 Q. Tell me the circumstances that led to
19 you seeing the drawing. What was going on?

20 A. You don't want me to describe it to
21 you?

22 Q. I'm sorry?

23 A. You don't want me to describe it, do
24 you?

1 Q. I want you to tell me the
2 circumstances surrounding you seeing it.

3 A. Oh, I was walking out of the guard
4 room and I was leaving. It was inside the little
5 hallway adjacent to the radio room and a door
6 that leads into a long corridor into the roll
7 call room. It was on a big chalkboard.

8 Q. How big is the chalkboard?

9 A. From here to here.

10 Q. Okay. So it's a couple feet wide?

11 A. Yes.

12 Q. And how tall is it?

13 A. Maybe from where you are to where I
14 am.

15 Q. Is it more of a square-shaped
16 chalkboard?

17 A. Yes, yes.

18 Q. As opposed to a long rectangular one?

19 A. Right.

20 Q. What day was it? Do you know what day
21 it was? Monday, Tuesday, Wednesday?

22 A. No, I don't remember.

23 Q. What time of day?

24 A. I don't remember. Maybe -- I don't

1 know. I don't know.

2 Q. And you were walking from the guard
3 room?

4 A. To go down to the garage.

5 Q. Where is the guard room?

6 A. The guard room is the long -- where
7 the long corridor is?

8 Q. Right.

9 A. The guard room is the roll call room.
10 Sorry.

11 Q. Okay. Were you at roll call or you
12 just happened to have been in the room for
13 something else?

14 A. I don't know. It's been such a long
15 time. I don't know what I was doing there. I
16 don't know if I was at roll call or I was working
17 an extra shift, if I was doing the morning shift.
18 I don't know what --

19 Q. As you walked down the hallway then,
20 you walked past the drawing on the chalkboard?

21 A. I looked at it and I put my head down
22 and kept going.

23 Q. Was anybody with you?

24 A. Nope. Not that I remember.

1 Q. What did you do after you walked
2 through the hallway? You went to the garage, I
3 think you said?

4 A. I did.

5 Q. And what did you do there?

6 A. I don't know.

7 Q. Did you ever see the drawing again?

8 A. No.

9 Q. The drawing was in chalk?

10 A. Yes.

11 Q. On a chalkboard?

12 A. Yes.

13 Q. What was your reaction to seeing the
14 drawing?

15 A. It didn't surprise me.

16 Q. Okay. Was that your only reaction,
17 didn't surprise me?

18 A. I was disgusted, but it didn't
19 surprise me. I just kept going.

20 Q. Why didn't it surprise you?

21 A. Just little things that were going on,
22 being said.

23 Q. What little things?

24 A. By this time all the racial slurs

1 were, you know, coming out and --

2 Q. And by that you mean comments about
3 the spics at the Wonderland Ballroom?

4 A. Yes.

5 Q. Okay.

6 A. And the other females complaining
7 about them being harassed.

8 Q. What other females had complained
9 about harassment as of July of '98?

10 A. I'm not sure, but I believe Maria
11 LaVita and I think she was working that night
12 with Lyn Curcio. Just little stuff, girls being
13 picked on.

14 Q. No, wait a minute. You had said
15 something about other officers had complained
16 about being harassed.

17 A. Yes.

18 Q. So who had complained about being
19 harassed and what was the harassment they
20 complained about?

21 A. Lyn and Maria complained about
22 Jeremiah Goodwin.

23 Q. Was he a sergeant at the time?

24 A. Yes.

1 at about 9:20, and it's now about 12:20, 12:25.
2 There's no way we can finish four additional
3 hours today, which is what I estimate the court
4 ordered two-and-a-half days it would take in
5 terms of completing those two-and-a-half days.

6 Ms. Thorne has obligations this
7 afternoon. Mr. Dilday has obligations this
8 afternoon. And so we're going to go ahead and
9 finish up for the day, and we'll reschedule the
10 remaining four hours later.

11 MR. VIGLIOTTI: While we're on the
12 record, there was reference in the record to
13 notes in the possession of Mr. Dilday. I believe
14 these individual defendants in discovery
15 requested any notes or correspondence relating to
16 the facts of this case, which those notes have
17 not been produced, nor was an objection filed.

18 I am asking for copies of those, if
19 you can bring it to Mr. Dilday's attention. I
20 just want that on the record in regards to those
21 notes.

22 MR. PORR: Lynn Malatesta's notes?

23 MR. VIGLIOTTI: Lynn Malatesta's
24 notes, which it doesn't sound like there's an

1 attorney-client privilege. Testimony was given
2 here today regarding those notes, so I'd ask you
3 to relay that message to Mr. Dilday that I am
4 requesting those notes.

5 MS. THORPE: I will definitely relay
6 that message. This is the first I've heard of
7 Ms. Malatesta's notes, so -- .

8 MR. VIGLIOTTI: Me, too.

9 MR. PORR: Good enough. Thank you.

10 (Deposition concluded at 12:25 p.m.)
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